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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,390	05/16/2001	Carol Lynn Ainsworth	DN2001102	3431

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The Goodyear Tire & Rubber Company  
Patent & Trademark Department -D/823  
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EXAMINER
NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/858,390

Applicant(s)

AINSWORTH ET AL.

Examiner

Thu Khanh T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-10 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/26/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by The Russian reference (1,331,660).

The Russian reference teaches an apparatus for bending tube ends, comprising a plurality of opposing legs (4) having free ends configured for location within the ends of the tubes (11) from an original external geometrical configuration into an altered external geometrical configuration and wherein both legs have a curved portion (see abstract), wherein the legs are firmly threaded into the corresponding base (5). The bending apparatus further comprises a handle (6) for turning the base and the legs to adjust the angle of the legs.

3. Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by the Netherlands reference (NL 9302251).

The NL'251 reference teaches a mandrel insertion for reshaping tubular elements, comprising a plurality of pair of opposing legs (12, 20; 42a-d, 44a-d; 60a-c, 62a-c) having free ends configured for location within opposite respective ends of a hose (28, 46, 64) to shape the end of the ends from the original external geometrical configuration into an altered external geometrical configuration and wherein both legs have a curved portions. The mandrel further

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comprises a hollow tube (26) located between the free ends of the opposing legs, base rods (32-36) for securing and adjusting the opposing legs, and a connective member having elongated bars (38, 40) extending between the ends of the opposing legs.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the NL'251 in view of the Russian SU'660 reference.

The NL'251 disclose a mandrel for reshaping end sections of tubular members as described above, in which the shaping legs (42, 44) are secured to a base rod (34, 36) which is adjustability connected by elongated bars (48, 50) extending between the ends of the opposing legs (Fig. 2a-3b).

The NL'251 reference fails to disclose an adjusting means for independently altering the rotational position of the leg relative to the other legs.

The Russian reference discloses an equipment for making rubber tubes with bent ends as described above, comprising means (5-8) for individually rotating each bending legs (4) to bend each side of the tube independently (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the NL'251 reference by providing means for individually

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rotating the bending legs as taught by the Russian reference, because the rotation means would allow the tube to be bent at different angle at each end.

6. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference ('121).

The Japanese reference teaches a device for molding bent hose, comprising a base section, or a connective member (1, 11), a pair of opposing engaging sections (2, 4, 22, 23), which engaged each end of the hose and curved each end into a desired shape, or the shape to be formed (translation, page 1, lines 1-4), a mandrel section (3) is integrally formed in one of the engaging sections, and the engaging sections are secured to the base section by a pin (8); wherein the base section comprises a position adjusting means for changing the position of the first engaging section and the second engaging section, which enable the device to reshape a hose having different shapes of curvature and different lengths (translation, page 1, 2<sup>nd</sup> paragraph). The Japanese reference also teaches that the device could be used to shape both ends of the hose, wherein each engaging section is secured to the base section by a pin, and the base member could either be a combination of a horizontal part and a movable vertical part, or a pyramidal base having changeable inclined pyramid surfaces (translation, page 4).

However, the Japanese reference fails to disclose that the bending device having curved mandrel at both ends of the engaging sections that are threaded onto the base rod.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the Japanese reference by replacing the securing means at one end of the hose by another shaping mandrel (3) as already positioned at the other end of the hose,

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because the additional curved mandrel would enable the bending device to shape both end of the hose at the same time; while the threaded means such as a bolt or a screw could be used because the threaded bolt or screw are usable in alternative to the pin to secure the engaging sections into the base and to disengage the connection when the engaging sections are moved to different position along the base.

### ***Response to Arguments***

7. Applicant's arguments filed March 30, 2004 have been fully considered but they are not persuasive. The Applicant have argued that the Japanese reference ('121) can only be used to create a curve in opposite ends of a hose by reversing the hose ends in a two step procedures, and the JP'121 reference is not capable of shaping both ends of a hose at the same time. The Examiner respectfully disagrees

The JP'121 has recognized that it is an advantage to shape the hose at both ends at the same time (Fig. 2, or translation –page 1). Because of this, it would have been obvious to one of ordinary skill in the art to replace the securing means at one end by a shaping mandrel (3) as disclosed at the other end of the hose in order to shape both ends of the hose as the same time (Fig. 2). This is just merely a duplication of parts. Further, it would have been obvious to one of ordinary skill in the art to change the size, the shape and the orientation of the shaping mandrel in order to reshape the hose ends having different sizes, shapes, and orientation. The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). There is no invention in merely changing the shape or form of an article without changing its function except in

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a design patent. See *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23 and *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

***Conclusion***


8. The references provided in the latest IDS (filed 01/26/04) are highly relevant to the current application, an English translation for each references should be provided in responding to this Office Action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN

  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300-1700  
6/14/2004